



66-2002-030
#A-069

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 28 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Daniel Karczewski, Owner
Danny's South Side Service
4230 S. Howell Avenue
Milwaukee, Wisconsin 53207

Re: File No. AED/MSEB - 4857

Dear Mr. Karczewski:

On June 26, 1998, an approved U.S. Environmental Protection Agency ("EPA") compliance survey was conducted at your retail outlet, located at 4230 S. Howell Avenue, Milwaukee, Wisconsin 53207. The survey was conducted to determine compliance with section 211(k) of the Clean Air Act ("Act"), 42 U.S.C. § 7545(k), and the regulations issued thereunder (40 C.F.R. part 80, subpart D). Where inappropriate fuels are used in internal combustion engines, the emissions of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission controls, emissions from motor vehicles continue to make up a very large portion of all air pollution. Congress has established a program of improvement and regulation of fuels to protect our air quality from unnecessary pollution associated with the misfueling of vehicles.

The applicable regulations provide that no person may manufacture and sell or distribute, offer for sale or distribution, dispense, supply, offer for supply, store, transport, or cause the transportation of any gasoline represented as reformulated and intended for sale or use in any covered area unless such gasoline meets the applicable standards specified in 40 C.F.R. § 80.41. This law also subjects violators to a maximum civil penalty of \$25,000 per day for each violation in addition to recovery of the amount of the economic benefit or savings resulting from the violation.

As a result of the inspection, EPA has determined that your retail outlet, which is located in the VOC-Control Region 2 reformulated gasoline covered area, was selling regular gasoline in violation of 40 C.F.R. § 80.78(a)(1) in that the regular gasoline failed to meet the minimum VOC emissions performance reduction percentage standard specified in 40 C.F.R. § 80.41. The gasoline had a VOC emission performance reduction of -178.03 percent which violates the minimum VOC emissions performance reduction of 13.1 percent for VOC-control Region 2. As the retailer who owns, leases, operates, controls or supervises the retail outlet where the violation was found, you are liable for violation of 40 C.F.R. § 80.78(a)(1) pursuant to 40 C.F.R. § 80.79(a)(1).

Sections 211 and 205 of the Act, 42 U.S.C. §§ 7545 and 7524, authorize the Administrator of EPA to assess a civil penalty of up to \$25,000 for every day of such violation and the economic benefit or savings resulting from the violation. Section 205(c) further authorizes the Administrator to compromise or remit, with or without conditions, any such penalty. After consideration of the magnitude and the gravity of the violation, the apparent size of your business, and your history of compliance with the Fuels Regulations, we propose a civil penalty for the violation alleged in this Notice of \$4,730.

The U.S. Environmental Protection Agency encourages settlement of such matters rather than initiating litigation in the federal courts. The settlement process provides substantial flexibility for reducing the statutory penalty, particularly if the alleged violation is corrected promptly. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

The EPA attorney designated below has been assigned to this case. Please contact her regarding this Notice of Violation.

Jocelyn L. Adair, Attorney
U.S. Environmental Protection Agency
Mobile Sources Enforcement Branch (2242-A)
401 M Street, S.W.
Washington, D.C. 20460
Phone number: (202) 564-1011

Please let me once again emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,

Richard Biondi
Bruce C. Buckheit, Director
Air Enforcement Division